

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 4025 of 1997

with  
civil application no. 591 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE J.N.BHATT and  
MR.JUSTICE A.M.KAPADIA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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GSRTC

Versus

BABUBEN KALYANBHAI DECD.THRO' HEIRS KALYANBHAI DEVJIBHAI

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Appearance:

MRS VASAVDATTA BHATT for Petitioner  
MR C.B.KAUSHAL, ADVOCATE FOR THE RESPONDENTS

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CORAM : MR.JUSTICE J.N.BHATT and  
MR.JUSTICE A.M.KAPADIA

Date of decision: 03/02/98

ORAL JUDGEMENT Per Bhatt,J.

Admit. Service is waived by learned advocate Mr.Kaushal for the respondents.Upon joint request, the matter is taken up for final hearing today.

In this appeal under Section 173 of the Motor Vehicles

Act,1988, the appellant-original respondent has questioned the legality and validity of the judgment and award recorded by the MACT (Main) Bhavnagar on 30.6.1997 in MACP No. 105 OF 1997 whereby the respondents-original claimants ,heirs and legal representatives of the deceased Babuaben came to be awarded an amount of Rs., 1,70,000/- for the untimely and premature demise of the deceased on account of a road accident which occurred on 2.1.1997.

Learned advocate for the appellant contended that there was no negligence on the part of the driver of the bus .This submission is devoid of any substance in view of the facts emerging from the record and depositions, copies whereof were read before us in course of the submissions at the admission stage. The Tribunal has considered seriously this aspect and has rightly rejected the defence of the original opponent-appellant herein.This aspect is elaborately enumerated by the Tribunal in para 14 of the award. We also broadly agree with the observations made by the Tribunal and find that the submission raised on behalf of the appellant that there was no rashness and negligence on the part of the driver of the offending bus is meritless and is rejected.

The amount of compensation of Rs.1,70,000/- awarded by Tribunal is reduced to Rs.1,50,000/- upon consensus. Mr. Kaushal learned advocate for the respondents fairly and frankly submitted that the amount of Rs.1,50,000/- will be reasonable in the facts and circumstances of the case. We,therefore,without entering into the merits of the quantum , reduce it to Rs.1,50,000/- instead of Rs.1,70,000/- awarded by the Tribunal. Rest of the directions and observations qua quantification of damages shall remain unaffected.

The appeal shall stand allowed partly to this extent confirming rest of the judgment and award.

It was stated before us that part of the awarded amount has already been deposited before the Tribunal.Remaining amount in view of the aforesaid directions with proportionate cost and interest shall be deposited before the Tribunal within a period of four weeks from today and it will be open to the Tribunal to pass appropriate orders for disbursement and investment pro-rata in terms of the directions contained in the impugned judgment and award.